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<p>1 Stevens</p> <p>2 and Larry Shaw. Well, Larry is no longer</p> <p>3 alive, unfortunately.</p> <p>4 Q. And you have already testified, I</p> <p>5 believe, that Edith Shaw Marcus is the SFA</p> <p>6 archivist?</p> <p>7 A. Yes.</p> <p>8 Q. As part of your responsibilities</p> <p>9 at SFA, do you -- have you had occasion to</p> <p>10 review any agreements that Sam Shaw</p> <p>11 entered into with any film studios?</p> <p>12 MR. SERBAGI: Objection to form.</p> <p>13 A. No.</p> <p>14 Q. Is there anyone at SFA who would</p> <p>15 have that responsibility?</p> <p>16 A. What responsibility are you</p> <p>17 referring to?</p> <p>18 Q. The question is: Is there anyone</p> <p>19 else at SFA who would have that</p> <p>20 responsibility?</p> <p>21 A. Not necessarily. I'm not sure</p> <p>22 that it is a specific responsibility that</p> <p>23 he has in the company.</p> <p>24 Q. I'm going to ask you to look at</p> <p>25 page 4, paragraph 11 of the complaint.</p>	<p>1 Stevens</p> <p>2 called back, she'll testify only to</p> <p>3 matters that the judge orders. This</p> <p>4 is currently the subject to a motion,</p> <p>5 and I told you that the subject of</p> <p>6 this deposition is the Rizzoli and</p> <p>7 Ballantine books.</p> <p>8 MR. SLOTNICK: I told you that</p> <p>9 was not acceptable to me.</p> <p>10 MR. SERBAGI: You can call her</p> <p>11 back and we'll let the judge decide.</p> <p>12 MR. SLOTNICK: I can ask the</p> <p>13 question and you can direct the</p> <p>14 witness not to answer. I'm going to</p> <p>15 control my deposition however I choose</p> <p>16 to control it. If you wish to tell</p> <p>17 her to not answer, that's fine. If</p> <p>18 you want to walk out of here, that's</p> <p>19 fine too and we'll address that. I'm</p> <p>20 asking the questions I want to ask.</p> <p>21 If you're telling her not to answer</p> <p>22 that is certainly your right until a</p> <p>23 judge tells you otherwise.</p> <p>24 So what was the question, please?</p> <p>25 (Record read)</p>
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<p>1 Stevens</p> <p>2 A. Okay.</p> <p>3 Q. Do you know who required your</p> <p>4 grandfather to be on the movie set of 7</p> <p>5 Year Itch?</p> <p>6 MR. SERBAGI: Objection to form.</p> <p>7 A. As stated in paragraph 11?</p> <p>8 Q. Yes.</p> <p>9 A. No, I do not.</p> <p>10 Q. Do you know if there is anyone at</p> <p>11 SFA who would know that?</p> <p>12 A. No, I do not.</p> <p>13 Q. In preparation for today's</p> <p>14 deposition, did you inquire as to your</p> <p>15 grandfather's role in the context of --</p> <p>16 your grandfather's role with respect to at</p> <p>17 least the 7 Year Itch?</p> <p>18 MR. SERBAGI: Objection to form.</p> <p>19 This is all the subject of a motion</p> <p>20 for a protective order.</p> <p>21 MR. SLOTNICK: Has the motion</p> <p>22 been decided?</p> <p>23 MR. SERBAGI: We had an agreement</p> <p>24 that this is a motion for a protective</p> <p>25 order. If the witness needs to be</p>	<p>1 Stevens</p> <p>2 MR. SERBAGI: Hold on. Don't</p> <p>3 answer that question yet.</p> <p>4 I direct you not to answer.</p> <p>5 MR. SLOTNICK: I have a series of</p> <p>6 questions regarding Sam Shaw's</p> <p>7 participation in shooting the flying</p> <p>8 skirt series of photographs relating</p> <p>9 to 1954. They have nothing to do with</p> <p>10 the Ballantine book or the Rizzoli</p> <p>11 book. I can ask a series of</p> <p>12 questions, or are you going to direct</p> <p>13 her not to answer that and then we can</p> <p>14 move on?</p> <p>15 MR. SERBAGI: One second.</p> <p>16 If they have nothing to do with</p> <p>17 Rizzoli and Ballantine book, you</p> <p>18 should move on to another topic.</p> <p>19 MR. SLOTNICK: So you're</p> <p>20 directing her not to answer?</p> <p>21 MR. SERBAGI: Yes. Based on your</p> <p>22 representation that they have nothing</p> <p>23 to do with the Rizzoli and Ballantine</p> <p>24 book.</p> <p>25 MR. SLOTNICK: They have to do</p>

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<p>1 Stevens</p> <p>2 with the creation of the flying skirt</p> <p>3 series, which to my knowledge took</p> <p>4 place before the Ballantine or Rizzoli</p> <p>5 books. I'm trying to determine things</p> <p>6 that happened in the creation of those</p> <p>7 photographs, that's my line of</p> <p>8 questioning. If you want to direct</p> <p>9 her not to answer those --</p> <p>10 MR. SERBAGI: Based on your</p> <p>11 representation a minute ago that they</p> <p>12 have nothing to do with the Rizzoli</p> <p>13 and Ballantine books, I'm directing</p> <p>14 the witness not to answer.</p> <p>15 MR. SLOTNICK: They have</p> <p>16 something to do in that they were</p> <p>17 created and they are in the books.</p> <p>18 MR. SERBAGI: To the extent that</p> <p>19 they are in the books, you can ask</p> <p>20 those questions. That's not what you</p> <p>21 said earlier.</p> <p>22 Q. I'm going to direct your attention</p> <p>23 to paragraph 14 of the complaint.</p> <p>24 A. Okay.</p> <p>25 Q. Okay.</p>	<p>1 Stevens</p> <p>2 stamped Saturday as it says in paragraph</p> <p>3 14, I really don't -- it doesn't say</p> <p>4 anything more than that for that day, so</p> <p>5 it would be hard for me to figure out the</p> <p>6 answer to your question.</p> <p>7 Q. Well, why don't we do this, why</p> <p>8 don't we leave a couple of lines blank in</p> <p>9 the deposition transcript, and when you</p> <p>10 are reviewing the transcript you can</p> <p>11 determine from the SFA files what, if</p> <p>12 anything, the profile shot is and identify</p> <p>13 it, and if it hasn't been produced,</p> <p>14 produce it.</p> <p>15 MR. SERBAGI: Objection.</p> <p>16 A. Is that a question?</p> <p>17 MR. SERBAGI: No, it's just a</p> <p>18 statement.</p> <p>19 MR. SLOTNICK: No, it's a</p> <p>20 request.</p> <p>21 INSERT: _____</p> <p>22</p> <p>23 Q. Would you look at paragraph 13 for</p> <p>24 a moment, please?</p> <p>25 A. Okay.</p>
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<p>1 Stevens</p> <p>2 Paragraph 14 hopefully provides a</p> <p>3 more detailed explanation of what the</p> <p>4 profile shot was.</p> <p>5 Does having this additional</p> <p>6 information give you any better idea of</p> <p>7 what the flying skirt profile shot was?</p> <p>8 MR. SERBAGI: Objection to form.</p> <p>9 A. No, it does not.</p> <p>10 Q. So you are unfamiliar with what</p> <p>11 your grandfather called the profile shot</p> <p>12 taken at 20th Century Fox's Hollywood lot?</p> <p>13 MR. SERBAGI: Objection to form.</p> <p>14 A. It's possible that I'm familiar</p> <p>15 with a particular photo that he is</p> <p>16 referring to when he says profile shot. I</p> <p>17 would have to see the photo, and then I</p> <p>18 can tell you if I'm familiar with the</p> <p>19 photo.</p> <p>20 Q. Are the photos at SFA organized in</p> <p>21 such a way that you can determine what was</p> <p>22 shot at the 20th Century lot on that day?</p> <p>23 MR. SERBAGI: Objection to form.</p> <p>24 A. That's a difficult question to</p> <p>25 answer. If I have a contact sheet that is</p>	<p>1 Stevens</p> <p>2 Q. This gives more detail with</p> <p>3 respect to the profile flying skirt shot.</p> <p>4 Does this refresh your</p> <p>5 recollection in any way as to what the</p> <p>6 shot is?</p> <p>7 MR. SERBAGI: Objection to form.</p> <p>8 A. I'm familiar with photographs that</p> <p>9 generally fit the description as stated in</p> <p>10 paragraph 13.</p> <p>11 Q. You have no reason to dispute the</p> <p>12 characterization that that is the most</p> <p>13 famous of the photographs?</p> <p>14 MR. SERBAGI: Objection to form.</p> <p>15 A. Can you repeat the question,</p> <p>16 please?</p> <p>17 (Record read)</p> <p>18 MR. SERBAGI: Same objection.</p> <p>19 A. I will neither dispute nor affirm</p> <p>20 that characterization. I can't.</p> <p>21 Q. I believe you testified generally</p> <p>22 earlier today that you were familiar with</p> <p>23 those photographs characterized as the</p> <p>24 flying skirt series, correct?</p> <p>25 A. I'm familiar with the flying skirt</p>

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<p>1 Stevens</p> <p>2 series, yes.</p> <p>3 Q. And I believe you testified that</p> <p>4 certain of those photographs have been</p> <p>5 published?</p> <p>6 MR. SERBAGI: Objection.</p> <p>7 A. I have seen photographs of Marilyn</p> <p>8 Monroe with her skirt flying in the air</p> <p>9 and they are in the Rizzoli book right</p> <p>10 here.</p> <p>11 Q. Have you seen them in any other</p> <p>12 book?</p> <p>13 MR. SERBAGI: Objection. That's</p> <p>14 not the subject of this deposition.</p> <p>15 I direct you not to answer.</p> <p>16 Q. So you will not answer any</p> <p>17 question regarding publication these</p> <p>18 photograph in any other book or</p> <p>19 publication; is that correct?</p> <p>20 A. My attorney has advised me to</p> <p>21 answer with respect to Rizzoli and</p> <p>22 Ballantine only.</p> <p>23 Q. Do you know whether your</p> <p>24 grandfather left any files, notes,</p> <p>25 regarding his work on the 7 Year Itch?</p>	<p>1 Stevens</p> <p>2 You can answer with respect to</p> <p>3 Rizzoli and Ballantine.</p> <p>4 A. Not that I have seen.</p> <p>5 Q. Is there anyone who might have a</p> <p>6 clearer understanding of whether such</p> <p>7 documents exist in the SFA files?</p> <p>8 A. I really don't know.</p> <p>9 Q. Would documents regarding the work</p> <p>10 done by Sam Shaw be part of the SFA</p> <p>11 archives?</p> <p>12 MR. SERBAGI: Objection to form.</p> <p>13 (Record read)</p> <p>14 MR. SERBAGI: Same objection.</p> <p>15 A. With respect to Rizzoli and</p> <p>16 Ballantine, if documents exist, they could</p> <p>17 be considered part of company records.</p> <p>18 Q. Would they be part of the</p> <p>19 archives?</p> <p>20 A. I consider our archive to be</p> <p>21 photographs, images, prints, negatives, et</p> <p>22 cetera.</p> <p>23 Q. So the written word by Sam Shaw</p> <p>24 would not be part of the archives</p> <p>25 according to your characterization?</p>
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<p>1 Stevens</p> <p>2 MR. SERBAGI: Objection.</p> <p>3 A. Could you please be more specific?</p> <p>4 Q. Within the SFA files, other than</p> <p>5 photographic material, is there anything</p> <p>6 in the files relating to the 7 Year Itch?</p> <p>7 MR. SERBAGI: As pertaining to</p> <p>8 Rizzoli and Ballantine, you may</p> <p>9 answer.</p> <p>10 A. It's hard for me to say whether or</p> <p>11 not the documents I have seen in SFA's</p> <p>12 files are necessarily -- have necessarily</p> <p>13 been left by Sam Shaw as you asked. For</p> <p>14 preparation today, I have seen documents</p> <p>15 that relate to photographs in the Rizzoli</p> <p>16 and Ballantine book. Some of those</p> <p>17 photographs are from the 7 Year Itch.</p> <p>18 Q. Are you familiar with your</p> <p>19 grandfather's handwriting?</p> <p>20 A. Yes, I am.</p> <p>21 Q. Are there documents within the SFA</p> <p>22 files in his handwriting written</p> <p>23 contemporaneous with the filming of the 7</p> <p>24 Year Itch in 1954?</p> <p>25 MR. SERBAGI: Objection to form.</p>	<p>1 Stevens</p> <p>2 A. Not necessarily. The written word</p> <p>3 could be considered a part of our</p> <p>4 collection.</p> <p>5 Q. And they would be maintained as</p> <p>6 part of the archives?</p> <p>7 A. Sam Shaw's writing would be</p> <p>8 maintained.</p> <p>9 Q. As part of the archives?</p> <p>10 A. Maybe it is a question of</p> <p>11 semantics of whether or not you consider</p> <p>12 it part of the archive, but I certainly</p> <p>13 would like to preserve all of his writing.</p> <p>14 He was a fabulous writer.</p> <p>15 Q. Are you familiar with a 1972</p> <p>16 poster of Marilyn Monroe from the 7 Year</p> <p>17 Itch?</p> <p>18 MR. SERBAGI: Objection.</p> <p>19 You can answer as to Rizzoli and</p> <p>20 Ballantine.</p> <p>21 A. If you would like to show me</p> <p>22 something in particular, I could respond</p> <p>23 better.</p> <p>24 Q. Well, then I think you're going to</p> <p>25 have to produce the poster from your</p>

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<p>1 Stevens</p> <p>2 files.</p> <p>3 MR. SERBAGI: Objection.</p> <p>4 MR. SLOTNICK: We'll ask for it.</p> <p>5 Your grandfather stated that in 1972,</p> <p>6 there was a poster of the photograph</p> <p>7 of the profile flying skirt and we</p> <p>8 would like a copy of that produced.</p> <p>9 MR. SERBAGI: We'll take it under</p> <p>10 advisement.</p> <p>11 Q. Have you ever seen a poster of the</p> <p>12 profile flying skirt photograph?</p> <p>13 MR. SERBAGI: Objection to form.</p> <p>14 A. I do not remember seeing a poster</p> <p>15 such as you have described, however, I'm</p> <p>16 happy to look at any poster or document</p> <p>17 that you would like to show me and it</p> <p>18 might help to refresh my recollection.</p> <p>19 Q. I'll ask you to refer to your own</p> <p>20 archives and see if there's a poster of</p> <p>21 the 1972 flying skirt, and we'll leave a</p> <p>22 space in the record for you to identify</p> <p>23 what you found.</p> <p>24 MR. SERBAGI: Objection.</p> <p>25 INSERT:</p>	<p>1 Stevens</p> <p>2 Defendants' Exhibit 7, which is identified</p> <p>3 as authorization to file copyright.</p> <p>4 Have you seen this document</p> <p>5 before?</p> <p>6 A. Yes.</p> <p>7 Q. When was that?</p> <p>8 A. Sometime in the past week.</p> <p>9 Q. And that was in preparation for</p> <p>10 today?</p> <p>11 A. Yes.</p> <p>12 Q. Is that your grandfather's</p> <p>13 signature?</p> <p>14 MR. SERBAGI: Objection.</p> <p>15 Q. Are you familiar with your</p> <p>16 grandfather's signature?</p> <p>17 A. I am familiar with his signature.</p> <p>18 Q. Does that appear to you that that</p> <p>19 is his signature?</p> <p>20 A. It looks familiar, but, of course,</p> <p>21 I didn't see him sign it.</p> <p>22 Q. Do you know what registration is</p> <p>23 referred to in this authorization?</p> <p>24 MR. SERBAGI: Objection.</p> <p>25 A. No, I do not.</p>
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<p>1 Stevens</p> <p>2</p> <p>3 Q. I'm going to ask you to look at</p> <p>4 paragraphs 21 and 22 of the complaint.</p> <p>5 A. Okay.</p> <p>6 Q. Are you familiar with the book,</p> <p>7 Marilyn?</p> <p>8 MR. SERBAGI: Objection.</p> <p>9 I direct you not to answer unless</p> <p>10 it pertains to Rizzoli and Ballantine.</p> <p>11 MR. SLOTNICK: So any questions</p> <p>12 regarding the book of Marilyn, you're</p> <p>13 directing her not to answer?</p> <p>14 MR. SERBAGI: Yes.</p> <p>15 Would you like to take a break?</p> <p>16 MR. SLOTNICK: We can take a</p> <p>17 break now.</p> <p>18 (Thereupon, a recess was taken,</p> <p>19 and then the proceedings continued as</p> <p>20 follows.)</p> <p>21 (Defendants' Exhibit 7,</p> <p>22 Authorization to File Copyright, marked</p> <p>23 for identification, as of this date.)</p> <p>24 BY MR. SLOTNICK:</p> <p>25 Q. The reporter just handed you</p>	<p>1 Stevens</p> <p>2 Q. Are you familiar with apparently a</p> <p>3 lawsuit called Dalman/Shaw versus</p> <p>4 Hallmark?</p> <p>5 A. I'm not.</p> <p>6 Q. So you're not familiar with what</p> <p>7 copyright was involved in this litigation?</p> <p>8 MR. SERBAGI: Objection.</p> <p>9 I direct you not to answer unless</p> <p>10 it pertains to Rizzoli and Ballantine.</p> <p>11 MR. SLOTNICK: How would we know?</p> <p>12 MR. SERBAGI: That's why I said</p> <p>13 unless. Those are the magic words.</p> <p>14 A. If you would like to show me some</p> <p>15 images that relate to this, I'm happy to</p> <p>16 try to answer more thoroughly.</p> <p>17 Q. Let's do it a different way.</p> <p>18 When you saw this document, did</p> <p>19 you ask anyone who it referred to?</p> <p>20 A. It is my understanding that this</p> <p>21 document is one page and is part of a</p> <p>22 larger document. I really cannot recall</p> <p>23 right now the larger document it refers</p> <p>24 to. If you could refresh my recollection.</p> <p>25 Q. Since these documents came from</p>

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<p>1 Stevens</p> <p>2 your files and this is a single document,</p> <p>3 I'm not sure if there is a larger</p> <p>4 document, but we will ask you to produce</p> <p>5 whatever document there is that is part of</p> <p>6 this larger document.</p> <p>7 But let's go back to my question.</p> <p>8 Did you ask anyone after seeing</p> <p>9 this document what the Dalman/Shaw versus</p> <p>10 Hallmark related to?</p> <p>11 A. Let me answer that question by</p> <p>12 qualifying my last answer.</p> <p>13 Q. Okay.</p> <p>14 A. You've just handed me a single</p> <p>15 piece of paper, and I believe that when I</p> <p>16 was reading this the first time I saw it</p> <p>17 that it was part of a larger context.</p> <p>18 Q. Okay.</p> <p>19 A. So if you would like to show me</p> <p>20 other documents that refer to the larger</p> <p>21 context, I might be able to remember</p> <p>22 better.</p> <p>23 Q. Since you seem to have the</p> <p>24 advantage of seeing the documents that</p> <p>25 were part of the larger context, why don't</p>	<p>1 Stevens</p> <p>2 or Ballantine.</p> <p>3 MR. SLOTNICK: Let's mark this as</p> <p>4 Defendants' Exhibit 8.</p> <p>5 (Defendants' Exhibit 8,</p> <p>6 Certificate of Registration, marked for</p> <p>7 identification, as of this date.)</p> <p>8 BY MR. SLOTNICK:</p> <p>9 Q. I'm going to ask you to look at</p> <p>10 what's been marked as Defendants' Exhibit</p> <p>11 8.</p> <p>12 Have you seen this document</p> <p>13 before?</p> <p>14 A. Yes, I have.</p> <p>15 Q. And do you know what it is?</p> <p>16 A. Yes.</p> <p>17 Q. What is it?</p> <p>18 A. It's a certificate of registration</p> <p>19 with the United States copyright office.</p> <p>20 Q. And you know that because you have</p> <p>21 read that from the top of the document?</p> <p>22 A. I see an official seal, yes.</p> <p>23 Q. Are you familiar with a work</p> <p>24 entitled, Sam and Marilyn?</p> <p>25 A. I see that on this document. Sam</p>
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<p>1 Stevens</p> <p>2 you produce the other documents that are</p> <p>3 part of the larger context and we can see</p> <p>4 if we'll have an opportunity to ask you</p> <p>5 those questions at a later time?</p> <p>6 THE WITNESS: Can I respond to</p> <p>7 that?</p> <p>8 MR. SERBAGI: No. I mean, there</p> <p>9 is not a question, but --</p> <p>10 A. Can I qualify my answer?</p> <p>11 Q. Go ahead.</p> <p>12 A. I guess it wasn't a question. I</p> <p>13 won't respond.</p> <p>14 Q. Whether there is a single document</p> <p>15 or a larger document, did you discuss the</p> <p>16 Dalman/Shaw versus Hallmark case with</p> <p>17 anyone else?</p> <p>18 MR. SERBAGI: Objection.</p> <p>19 A. I don't remember. No, I don't</p> <p>20 think so.</p> <p>21 Q. So if you don't remember, then you</p> <p>22 don't know whether this has anything to do</p> <p>23 with Rizzoli or Ballantine?</p> <p>24 A. I do not know whether or not this</p> <p>25 document has anything to do with Rizzoli</p>	<p>1 Stevens</p> <p>2 and Marilyn is typed in under title of his</p> <p>3 work.</p> <p>4 Q. Are you familiar with what that</p> <p>5 work is?</p> <p>6 A. It is my understanding from this</p> <p>7 document that Sam and Marilyn is the title</p> <p>8 to a compilation of photo images and text</p> <p>9 in Marilyn Monroe, The Life, The Myth.</p> <p>10 Q. And you see that because you're</p> <p>11 reading what's in section one of the</p> <p>12 document?</p> <p>13 A. That is correct.</p> <p>14 Q. Have you ever seen the work</p> <p>15 entitled Sam and Marilyn?</p> <p>16 A. Well, the work entitled Sam and</p> <p>17 Marilyn refers to a compilation of photo</p> <p>18 images and text in the Marilyn Monroe, The</p> <p>19 Life, The Myth Rizzoli book. Unless the</p> <p>20 photos are attached to this registration,</p> <p>21 it's hard for me to verify.</p> <p>22 Q. Fair enough.</p> <p>23 Why don't we look down at the</p> <p>24 bottom right-hand corner. You will see</p> <p>25 application received February 10, 1997.</p>

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<p>1 Stevens</p> <p>2 and then you will see one deposit received</p> <p>3 and there are two dates, 6-4-96 and</p> <p>4 November 3, 1997.</p> <p>5 Did you look to see what the</p> <p>6 deposit was that was received with this</p> <p>7 registration?</p> <p>8 MR. SERBAGI: Objection to form.</p> <p>9 A. I did look up copyright</p> <p>10 registrations for Sam Shaw on the website</p> <p>11 of the United States copyright office.</p> <p>12 Q. What did you find?</p> <p>13 A. I believe that VA880-127 is</p> <p>14 publicly available on that website.</p> <p>15 Q. Did you look within the SFA files</p> <p>16 or archives for the copy deposited of this</p> <p>17 work, Sam and Marilyn?</p> <p>18 A. Yes, I did.</p> <p>19 Q. And what did you find?</p> <p>20 A. I really don't remember.</p> <p>21 Q. This was last week. You don't</p> <p>22 recall seeing a photograph entitled Sam</p> <p>23 and Marilyn in the files?</p> <p>24 MR. SERBAGI: Objection. Asked</p> <p>25 and answered.</p>	<p>1 Stevens</p> <p>2 for identification, as of this date.)</p> <p>3 BY MR. SLOTNICK:</p> <p>4 Q. The reporter has just handed you</p> <p>5 what's been marked as Defendants' Exhibit</p> <p>6 9, which is an application for</p> <p>7 registration identified by the number</p> <p>8 A193450, name of Sam Shaw, the title of</p> <p>9 the work is, Marilyn Monroe As The Girl.</p> <p>10 Have you seen this document</p> <p>11 before?</p> <p>12 A. Yes, I have.</p> <p>13 Q. Do you know what this is a</p> <p>14 registration for?</p> <p>15 A. I believe it is a registration for</p> <p>16 Marilyn Monroe As The Girl.</p> <p>17 Q. And do you understand that Marilyn</p> <p>18 Monroe As The Girl has been referred to by</p> <p>19 us today as the Ballantine book?</p> <p>20 A. Yes.</p> <p>21 MR. SLOTNICK: Just so we have it</p> <p>22 all together, let's mark this.</p> <p>23 (Defendants' Exhibit 10, Marilyn</p> <p>24 Monroe As The Girl, marked for</p> <p>25 identification, as of this date.)</p>
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<p>1 Stevens</p> <p>2 A. I'll say again that Sam and</p> <p>3 Marilyn is the title of a work. In the</p> <p>4 nature of that work is compilation of</p> <p>5 photo images and text. I believe this</p> <p>6 information is publicly available. If you</p> <p>7 would like to show me what is on deposit</p> <p>8 with the Library of Congress, then perhaps</p> <p>9 it will refresh my memory.</p> <p>10 Q. Well, it may be publicly</p> <p>11 available, but it is also available</p> <p>12 through your files, and I'm going to ask</p> <p>13 you to produce copies of the actual</p> <p>14 deposit copy that went with this form</p> <p>15 VA --</p> <p>16 MR. SERBAGI: Objection.</p> <p>17 Q. Just so we're clear, you</p> <p>18 understand the publication, Marilyn</p> <p>19 Monroe, The Life, The Myth is what we have</p> <p>20 been referring to as the Rizzoli book?</p> <p>21 A. I do understand that.</p> <p>22 MR. SLOTNICK: Let me mark this</p> <p>23 as Exhibit 9.</p> <p>24 (Defendants' Exhibit 9,</p> <p>25 Application for Registration, marked</p>	<p>1 Stevens</p> <p>2 BY MR. SLOTNICK:</p> <p>3 Q. I'm not sure how many specific</p> <p>4 questions I have about that.</p> <p>5 Have you seen this book before?</p> <p>6 A. I have seen photocopies of some of</p> <p>7 the images in the book.</p> <p>8 Q. But you have never seen the book</p> <p>9 as a book?</p> <p>10 A. No.</p> <p>11 Q. Do you know who Stanley Kaufman</p> <p>12 is -- was?</p> <p>13 A. Reading from Exhibit 9, Stanley</p> <p>14 Kaufman is one of the authors of Marilyn</p> <p>15 Monroe As The Girl.</p> <p>16 Q. But independent of that, you have</p> <p>17 no knowledge of who Stanley Kaufman is?</p> <p>18 A. No.</p> <p>19 Q. And have you seen this temporary</p> <p>20 registration certificate in your files, in</p> <p>21 the SFA files?</p> <p>22 A. I don't know.</p> <p>23 Q. How would SFA file a document such</p> <p>24 as this?</p> <p>25 MR. SERBAGI: Objection to form.</p>

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Page 138	Page 140
<p>1 Stevens</p> <p>2 Q. How would you maintain it in your</p> <p>3 files?</p> <p>4 MR. SERBAGI: Objection to form.</p> <p>5 A. Could you be more specific,</p> <p>6 please?</p> <p>7 Q. You mentioned before that you have</p> <p>8 seen registration certificates, and we</p> <p>9 talked about the archives being certain</p> <p>10 materials, and then you have file cabinets</p> <p>11 presumably with contracts and other</p> <p>12 documents.</p> <p>13 I'm asking if there is a -- does</p> <p>14 SFA maintain copyright certificates in a</p> <p>15 specific location or in some specific</p> <p>16 filing manner?</p> <p>17 MR. SERBAGI: Objection to form.</p> <p>18 A. Generally speaking, SFA keeps</p> <p>19 binders of our files. I have seen a</p> <p>20 binder with copyright registration related</p> <p>21 documents.</p> <p>22 Q. When you say related documents,</p> <p>23 you mean things like a registration</p> <p>24 application or certificate?</p> <p>25 A. Things of that nature, yes.</p>	<p>1 Stevens</p> <p>2 A. I really don't know how many.</p> <p>3 Q. More than five?</p> <p>4 A. I'll say more than two definitely.</p> <p>5 Q. And these were typical looseleaf</p> <p>6 binders?</p> <p>7 MR. SERBAGI: Objection to form.</p> <p>8 A. They were not Trapper Keepers, if</p> <p>9 that's what you're asking. We have</p> <p>10 regular office quality binders.</p> <p>11 Q. Did you say they are not fabric</p> <p>12 keepers?</p> <p>13 A. Trapper Keepers. It's a joke from</p> <p>14 the 1980s. I'm dating myself.</p> <p>15 Q. You should be the one in this room</p> <p>16 dating yourself. But I do know what</p> <p>17 you're talking about.</p> <p>18 So there are two of these binders</p> <p>19 that you're familiar with. Did you view</p> <p>20 these binders in preparation for today's</p> <p>21 deposition?</p> <p>22 A. Yes, I did.</p> <p>23 Q. Did you review this specific</p> <p>24 registration certificate for Marilyn</p> <p>25 Monroe As The Girl?</p>
Page 139	Page 141
<p>1 Stevens</p> <p>2 Q. What other things of that nature</p> <p>3 would be within the binder?</p> <p>4 A. For example, a cover letter.</p> <p>5 Q. Cover letter to the copyright</p> <p>6 office?</p> <p>7 A. Yes.</p> <p>8 Q. Would such documents be maintained</p> <p>9 anywhere other than in this binder?</p> <p>10 MR. SERBAGI: Objection.</p> <p>11 A. I believe they are publicly</p> <p>12 available.</p> <p>13 Q. I'm talking about at SFA.</p> <p>14 A. At SFA? I don't see a reason why</p> <p>15 we would have them in multiple places. I</p> <p>16 would imagine they would be categorized by</p> <p>17 subject matter.</p> <p>18 Q. Within this binder?</p> <p>19 A. Yes.</p> <p>20 Q. Is there more than one binder?</p> <p>21 A. For what?</p> <p>22 Q. For copyright registration related</p> <p>23 material?</p> <p>24 A. Yes.</p> <p>25 Q. How many?</p>	<p>1 Stevens</p> <p>2 A. I have seen these two pieces of</p> <p>3 paper, Exhibit 9 -- I believe I saw them</p> <p>4 as part of the production of this case,</p> <p>5 the claims that we're here to talk about</p> <p>6 today.</p> <p>7 Q. Have you seen any other</p> <p>8 registration certificates for Marilyn</p> <p>9 Monroe As The Girl.</p> <p>10 A. I don't remember.</p> <p>11 Q. I'm going to ask you to review</p> <p>12 files and produce to us any other</p> <p>13 registrations that SFA has with respect to</p> <p>14 Marilyn Monroe As The Girl, or any of the</p> <p>15 specific individual photographs within</p> <p>16 Marilyn Monroe.</p> <p>17 MR. SERBAGI: We'll take your</p> <p>18 request under advisement.</p> <p>19 MR. SLOTNICK: Let's mark this as</p> <p>20 Exhibit 11.</p> <p>21 (Defendants' Exhibit 11, Letter,</p> <p>22 marked for identification, as of this</p> <p>23 date.)</p> <p>24 BY MR. SLOTNICK:</p> <p>25 Q. Take a look at that and tell me if</p>

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Page 142	Page 144
<p>1 Stevens</p> <p>2 you have seen it before.</p> <p>3 Have you seen this letter before?</p> <p>4 A. Yes.</p> <p>5 Q. And when was that?</p> <p>6 A. Sometime in this past week.</p> <p>7 Q. In preparing for today?</p> <p>8 A. Correct.</p> <p>9 Q. Do you know what Marilyn Monroe</p> <p>10 book is referred to in the letter?</p> <p>11 A. I do not.</p> <p>12 Q. Did you inquire with anyone else</p> <p>13 at SFA about the Marilyn Monroe book or</p> <p>14 this piece of paper?</p> <p>15 A. I did not.</p> <p>16 Q. Do you know which pictures are</p> <p>17 referred to in this letter?</p> <p>18 A. I do not.</p> <p>19 Q. Do you know what the Motion</p> <p>20 Picture and Television Photo Archive is?</p> <p>21 A. No.</p> <p>22 (Defendants' Exhibit 12,</p> <p>23 Photocopy of Book, Marilyn Among</p> <p>24 Friends, marked for identification, as</p> <p>25 of this date.)</p>	<p>1 Stevens</p> <p>2 Q. When and where?</p> <p>3 A. I've seen it at my mother's house.</p> <p>4 Q. May I ask you to look at pages --</p> <p>5 we see at the bottom there are numbers</p> <p>6 SFA01059, 01060, let's go through 62,</p> <p>7 although there may be more.</p> <p>8 You have seen these photographs</p> <p>9 before?</p> <p>10 A. Uh-huh.</p> <p>11 Q. You can confirm this, but I</p> <p>12 believe those same photographs are in the</p> <p>13 Rizzoli book; is that not correct?</p> <p>14 MR. SERBAGI: Objection.</p> <p>15 Q. Just compare, 46 and 47.</p> <p>16 A. Document 01059 is -- appears to be</p> <p>17 the same as page 146 in Rizzoli. Yes, the</p> <p>18 rest of the pages you have asked me to</p> <p>19 look at appear to be the pages from the</p> <p>20 Rizzoli book.</p> <p>21 MR. SLOTNICK: Let's mark this as</p> <p>22 Defendants' Exhibit 13.</p> <p>23 MR. SERBAGI: I want to note one</p> <p>24 thing for the record, Mr. Slotnick,</p> <p>25 that this book that you have produced,</p>
Page 143	Page 145
<p>1 Stevens</p> <p>2 BY MR. SLOTNICK:</p> <p>3 Q. I'm going to ask you to take a</p> <p>4 look at what's been marked as Defendants'</p> <p>5 Exhibit 12, which is the photocopy of the</p> <p>6 book entitled, Marilyn Among Friends, Sam</p> <p>7 Shaw and Norman Rosten, R-O-S-T-E-N.</p> <p>8 Have you seen this book in an</p> <p>9 actual book form before?</p> <p>10 A. The book Marilyn Among Friends?</p> <p>11 Q. Yes.</p> <p>12 A. Yes, I have.</p> <p>13 Q. Where have you seen it?</p> <p>14 MR. SERBAGI: I'm going to direct</p> <p>15 you not to answer regarding this book</p> <p>16 unless it pertains to Rizzoli and</p> <p>17 Ballantine.</p> <p>18 MR. SLOTNICK: So you're</p> <p>19 directing the witness not to answer</p> <p>20 that question?</p> <p>21 MR. SERBAGI: Unless it pertains</p> <p>22 to Rizzoli and Ballantine.</p> <p>23 MR. SLOTNICK: I'm trying to</p> <p>24 determine if she has seen the book.</p> <p>25 A. I have seen the book.</p>	<p>1 Stevens</p> <p>2 that you have identified as Exhibit</p> <p>3 12, was not produced to you in the</p> <p>4 manner that you have clipped it</p> <p>5 together like this.</p> <p>6 MR. SLOTNICK: How was it</p> <p>7 produced?</p> <p>8 MR. SERBAGI: I want to note that</p> <p>9 it is misleading to have clipped it</p> <p>10 like this because this does not</p> <p>11 constitute what is -- the front page</p> <p>12 says Marilyn Among Friends. Clipping</p> <p>13 it like this leads one to the</p> <p>14 conclusion that they came together</p> <p>15 like this.</p> <p>16 MR. SLOTNICK: How did you</p> <p>17 produce it?</p> <p>18 MR. SERBAGI: As separate pages.</p> <p>19 MR. SLOTNICK: Is there a</p> <p>20 question as to whether this is a book?</p> <p>21 Are you raising that as an issue?</p> <p>22 MR. SERBAGI: I'm not testifying.</p> <p>23 I'm just noting for the record that it</p> <p>24 wasn't produced in this manner.</p> <p>25 Somebody is trying to make it seem as</p>

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<p>1 Stevens</p> <p>2 if it was when it wasn't.</p> <p>3 MR. SLOTNICK: We're not making</p> <p>4 any representations. It is my</p> <p>5 understanding that this is the book.</p> <p>6 I could be wrong.</p> <p>7 MR. SERBAGI: Why don't you ask</p> <p>8 the witness since you're not the one</p> <p>9 testifying.</p> <p>10 MR. SLOTNICK: Sure.</p> <p>11 Q. Have you seen the book, Marilyn</p> <p>12 Among Friends?</p> <p>13 A. I have seen the book, Marilyn</p> <p>14 Among Friends.</p> <p>15 Q. Is it your testimony that this is</p> <p>16 not Marilyn Among Friends or any portion</p> <p>17 of it is not Marilyn Among Friends?</p> <p>18 A. There are portions that are --</p> <p>19 that appear to be from the book, Marilyn</p> <p>20 Among Friends, however, there are</p> <p>21 photocopies of products, mugs, tags,</p> <p>22 receipts, and photos from the Rizzoli</p> <p>23 book, or to clarify, photocopies of pages</p> <p>24 from the Rizzoli book.</p> <p>25 Q. Is it your understanding that</p>	<p>1 Stevens</p> <p>2 A. I think that is a compound</p> <p>3 question. Can you rephrase that, please?</p> <p>4 Q. Sure.</p> <p>5 Which photographs, are there any</p> <p>6 photographs among this group of what is</p> <p>7 Exhibit 12, which are part of the flying</p> <p>8 skirt series and found in Marilyn Among</p> <p>9 Friends?</p> <p>10 A. Well, in order to answer that</p> <p>11 question, I would have to have the book,</p> <p>12 Marilyn Among Friends.</p> <p>13 Q. Well, it appears that you didn't</p> <p>14 produce the book, so we'll ask you to</p> <p>15 produce the book.</p> <p>16 MR. SERBAGI: We'll take your</p> <p>17 request under advisement.</p> <p>18 MR. SLOTNICK: Let's mark this as</p> <p>19 Exhibit 13.</p> <p>20 (Defendants' Exhibit 13,</p> <p>21 Document, marked for identification, as</p> <p>22 of this date.)</p> <p>23 BY MR. SLOTNICK:</p> <p>24 Q. Have you seen this document</p> <p>25 before?</p>
Page 147	Page 149
<p>1 Stevens</p> <p>2 pages 01059060, 061, 062 are not from</p> <p>3 Marilyn Among Friends; is that your</p> <p>4 understanding?</p> <p>5 A. Which ones did you say?</p> <p>6 Q. The ones that are -- match up to</p> <p>7 the Rizzoli book?</p> <p>8 A. These are not pages from the book,</p> <p>9 Marilyn Among Friends.</p> <p>10 MR. SLOTNICK: And you're</p> <p>11 otherwise directing the witness not to</p> <p>12 answer any questions regarding Marilyn</p> <p>13 Among Friends?</p> <p>14 MR. SERBAGI: Correct. Unless it</p> <p>15 somehow relates to Rizzoli and</p> <p>16 Ballantine.</p> <p>17 Q. Since SFA produced this book and</p> <p>18 since SFA has stated in what was its</p> <p>19 second amended complaint that it includes</p> <p>20 the flying skirt photograph most</p> <p>21 prominently displayed, I guess I'm going</p> <p>22 to have to ask the witness, are these</p> <p>23 photographs in Marilyn Among Friends, and</p> <p>24 if not, which ones are?</p> <p>25 MR. SERBAGI: Objection.</p>	<p>1 Stevens</p> <p>2 A. Yes.</p> <p>3 Q. When?</p> <p>4 MR. SERBAGI: I direct you not to</p> <p>5 answer the questions regarding this</p> <p>6 document unless it pertains to the</p> <p>7 Rizzoli and Ballantine books.</p> <p>8 MR. SLOTNICK: Let's move on.</p> <p>9 MR. SERBAGI: Get to the ones</p> <p>10 that do. We're going to have a</p> <p>11 standing objection.</p> <p>12 MR. SLOTNICK: We've gotten to</p> <p>13 Rizzoli and we've gotten to</p> <p>14 Ballantine. So let's just move it</p> <p>15 along.</p> <p>16 Why don't we take a five minute</p> <p>17 break.</p> <p>18 (Thereupon, a recess was taken,</p> <p>19 and then the proceedings continued as</p> <p>20 follows:)</p> <p>21 BY MR. SLOTNICK:</p> <p>22 Q. Couple more questions and then we</p> <p>23 can finish up.</p> <p>24 We talked briefly, maybe not so</p> <p>25 briefly, about these binders that have the</p>

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<p>1 Stevens</p> <p>2 registration information. Do you recall?</p> <p>3 A. Yes.</p> <p>4 Q. I take it those binders have</p> <p>5 registration information regarding</p> <p>6 photographs that are not just of Marilyn</p> <p>7 Monroe; is that correct?</p> <p>8 A. I don't know.</p> <p>9 Q. Did you review the binders?</p> <p>10 A. In preparation for today's</p> <p>11 deposition, I reviewed binders relevant to</p> <p>12 today's topics.</p> <p>13 Q. Were there binders that were</p> <p>14 specifically relevant to today's</p> <p>15 deposition?</p> <p>16 MR. SERBAGI: Objection to form.</p> <p>17 A. I reviewed copyright registrations</p> <p>18 relevant to today's topics, Rizzoli and</p> <p>19 Ballantine.</p> <p>20 Q. And were those in a binder?</p> <p>21 A. I recall seeing the Rizzoli</p> <p>22 registration, Exhibit 8, among our company</p> <p>23 files.</p> <p>24 Q. You testified before that you saw</p> <p>25 registration certificates or registration</p>	<p>1 Stevens</p> <p>2 A. Can you repeat the question,</p> <p>3 please?</p> <p>4 (Record read)</p> <p>5 A. No.</p> <p>6 Q. Now, when you said before that</p> <p>7 there were at least two binders of</p> <p>8 registration material, were you saying</p> <p>9 that those binders were limited to Marilyn</p> <p>10 Monroe material?</p> <p>11 A. I did not say that.</p> <p>12 Q. I'm asking you now.</p> <p>13 A. However, I saw at least two</p> <p>14 binders with information related to</p> <p>15 Marilyn Monroe.</p> <p>16 MR. SLOTNICK: We're going to ask</p> <p>17 for the production of those binders.</p> <p>18 MR. SERBAGI: We'll take it under</p> <p>19 advisement.</p> <p>20 MR. SLOTNICK: I have no further</p> <p>21 questions.</p> <p>22 Ted, do you have anything to say?</p> <p>23 MR. MINCH: You guys have well</p> <p>24 covered it. I have nothing to add.</p> <p>25 On behalf of CMG Worldwide, Inc., we</p>
Page 151	Page 153
<p>1 Stevens</p> <p>2 certificates were kept in a binder or</p> <p>3 binders. I'm asking then in preparation</p> <p>4 for today, when you saw the Rizzoli</p> <p>5 registration, was that in a binder or was</p> <p>6 that outside of a binder?</p> <p>7 A. In preparation for today, I saw</p> <p>8 Exhibit 8 in a binder.</p> <p>9 Q. And was that in a binder with</p> <p>10 other registration certificates?</p> <p>11 A. I believe so.</p> <p>12 Q. And were the other registration</p> <p>13 certificates reviewed by you in</p> <p>14 preparation for today?</p> <p>15 A. I have flipped through the binder.</p> <p>16 Q. And in flipping through the</p> <p>17 binder, did you see registrations that</p> <p>18 pertained to photographs other than</p> <p>19 Marilyn Monroe?</p> <p>20 MR. SERBAGI: Objection. What's</p> <p>21 the relevance of this?</p> <p>22 MR. SLOTNICK: I'm trying to</p> <p>23 narrow the field as to what there is</p> <p>24 and isn't. The witness testified what</p> <p>25 the variety was.</p>	<p>1 Stevens</p> <p>2 request a copy of the transcript of</p> <p>3 this deposition today.</p> <p>4 MR. SERBAGI: I would like to</p> <p>5 request on the record copies of the</p> <p>6 books that you have marked as exhibits</p> <p>7 but have not provided to me.</p> <p>8 MR. SLOTNICK: Sure, it's that</p> <p>9 and Ballantine.</p> <p>10 MR. SERBAGI: I'll note for the</p> <p>11 record that I have seen some documents</p> <p>12 that you have marked as exhibits today</p> <p>13 that were not included in your</p> <p>14 document production to us, but were</p> <p>15 clearly responsive to a number of</p> <p>16 requests, so we would like you to</p> <p>17 supplement your production.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 (Continued on the following</p> <p>23 page to include the jurat.</p> <p>24</p> <p>25</p>

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Page 154	Page 156
<p>1 Stevens</p> <p>2 MR. SLOTNICK: You can have a</p> <p>3 copy of these. Do you want the</p> <p>4 originals to be bound in with the</p> <p>5 transcript?</p> <p>6 Why don't you do that?</p> <p>7 (Time noted: 3:41 p.m.)</p> <p>8</p> <p>9 <u>MELISSA STEVENS</u></p> <p>10</p> <p>11 Subscribed and sworn to before me</p> <p>12 this ____ day of _____, 2007.</p> <p>13</p> <p>14 _____</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1</p> <p>2 ----- EXHIBITS -----</p> <p>3 DEFENDANTS' EXHIBITS FOR ID.</p> <p>4 3 Complaint 54</p> <p>5 4 Decision dated March 19, 1999 61</p> <p>6 5 Rule 56.1 Statement 64</p> <p>7 6 Complaint 100</p> <p>8 7 Authorization to File Copyright 127</p> <p>9 8 Certificate of Registration 132</p> <p>10 9 Application for Registration 135</p> <p>11 10 Marilyn Monroe As The Girl 136</p> <p>12 11 Letter 141</p> <p>13 12 Photocopy of Book, Marilyn Among</p> <p>14 Friends 142</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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